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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,230	10/17/2001	Steven B. McGowan	INTL-0625-US (P11956)	5567

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EXAMINER	
EISEN, ALEXANDER	

ART UNIT	PAPER NUMBER
2674	6

DATE MAILED: 11/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/981,230	MCGOWAN, STEVEN B.	
	Examiner	Art Unit	
	Alexander Eisen	2674	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 September 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. **Claims 1-7 and 9-23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sisselman, US 2003/0007079 A1 in view of Kawamura et al., (hereinafter Kawamura), US 5,153,569 (both references are references of record).

With respect to **claims 1** and **25,** Sisselman discloses a personal hand-held viewing device (FIG. 5) comprising an optics element (lens 310) to facilitate viewing; an image sensor to capture frames (as part of image signal processor 320, see paragraph [0029]); a storage (RAM 370) to store sequence of frames of predetermined duration (see paragraph [0032]), whereas the storage is coupled to said sensor; a display (380) coupled to said storage to display the sequence of frames; and a controller (microprocessor 350) to automatically store successive sequence of frames of predetermined duration including an earlier and later sequences, said controller storing the later sequence of frames in the storage and automatically overwriting an earlier sequence (see FIGS. 6 and steps 620-640 in flow-chart diagram in FIG.8; also paragraphs [0033 – 0036]).

Sisselman does not disclose an optic element to enable the user to selectively view a scene or the display through the optic element.

Kawamura teaches a personal viewing device (FIGS. 10-11) capable of delivering real scene or recorded image displayed on a display to a user, and having an optic element (shutter) for selectively view a scene or the display (FIG. 4; col. 3, line 47 - col. 4, line 17).

It would have been obvious to one of ordinary skill in the art at the time when the invention was made to modify the viewing device of Sisselman with optical arrangement of Kawamura, because it would improve the former with the ability to switch between viewing a real scene or pre-recorded images from the display at user's discretion without the viewer's need to take off the viewing device (Kawamura; col. 7, lines 19-28).

In regard to **claim 2,** Sisselman further teaches that the device controller loops back to a first sequence and overwrites the first sequence of frames with a second sequence of frames (see paragraph [0033] and FIG. 6).

As to **claims 3** and **4,** Sisselman also teaches that the storage has the capacity to store an integral number of sequences of frames of predetermined duration, (one in an exemplary embodiment consisting of twenty memory segments with 3 second duration each; see paragraph [0032]).

With regard to **claims 5 - 7,** the device of Sisselman is a camera with a magnifying (zoom) feature, and as such is effectively a camera, telescope or microscope when the functions it is capable of performing are taken into consideration.

As to **claim 9,** Kawamura teaches a beamsplitter (2) arranged to pass light from the scene (troughthe shutter 3) or from the display (7).

As to **claims 10** and **25,** Kawamura teaches the shutter (3) to control viewing access to the optic element (beamsplitter 2).

As to **claim 11,** Kawamura further teaches that the device selectively enables a user to view the display or a scene through the optic element.

As to **claim 12,** the only viewing means that the device of Sisselman has is the display (120), which is built-in into housing (110) (see FIGS. 1-4; paragraph [0025]).

As to **claim 13,** the controller enables a user to select when to display a sequence of frames of predetermined duration (see relevant function of replay button 190 in paragraphs [0028] and [0031]).

With respect to **claim 14,** Sisselman teaches the device corresponding method, wherein a sequence of frames of predetermined duration is recorded and consequently is overwritten by a following sequence of frames, and in response to a user selection allows to the user to view a recorded sequence of frames (see related citations regarding claim 1). Kawamura teaches enabling a user to selectively (by switching LCD shutter 3 and controlling display driving circuitry) view recorded images or an actual scene through the same viewing port.

As to **claim 15,** Sisselman further teaches that the aforementioned method includes storing a first sequence and then looping back to the beginning of the first sequence and overwriting the first sequence with a second sequence of frames (see also discussion related to claim 2).

In regard to **claim 16,** the method involves an integral number of sequences of frames of predetermined duration.

As to **claims 17 and 18,** Sisselman further teaches that the method enabling a user to select to view either real time scene or recorded sequence of frames by choosing a playback mode (paragraph [0028]).

As to **claim 19,** Sisselman teaches a processor-based system for implementing a method of recording, overwriting and selectively viewing a recorded sequence of frames. While Sisselman does not explicitly teach that the processor includes a medium for storing instructions that enables it to execute the aforementioned method, it is notoriously known that the processor-based systems inherently have a medium for storing instruction that are being executed by the processor in order to make the processor-based system viable (see, for example a flow-chart in FIG. 8 reflecting a program executed by the processor). Kawamura teaches viewing the recorded images or a real scene using the same viewing port.

As to **claim 20,** see discussion related to claims 2 and 15.

As to **claim 21,** see discussion related to claim 3 and 16.

As to **claims 22 and 23,** see rejection related to claims 13, 17 and 18.

3. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Sisselman in view Kawamura and further in view of Hammack (all references are of record).

Sisselman discloses the device and corresponding method, wherein a sequence of frames of predetermined duration is recorded and consequently is overwritten by a following sequence of frames, and in response to a user selection allows to the user to view a recorded sequence of frames (see related citations regarding claim 1). Sisselman also teaches that the viewing device can have zooming, binocular-like feature ([0029]).

Kawamura teaches an optic element enabling a user to selectively vies a scene or the display/

None of the above teaches that the replay device can be a binocular.

Hammack teaches a digital record and replay binocular having stereoscopic, telescopic

and magnifying functions.

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement a recording and replaying method of Sisselman into the device of Hammack, because it would result in an improved apparatus, which would allow advantageously to view stereoscopic or 3D images as taught by Hammack (Hammack, column 1, line 53-61).

Response to Arguments

4. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Eisen whose telephone number is **(703) 306-2988**. The examiner can normally be reached on M-F (8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard A. Hjerpe can be reached on **(703) 305-4709**.

Any response to this action should be **mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or **faxed to:**
(703) 872-9314 (for Technology Center 2600 only).

Hand-delivered responses should be **brought to:** Crystal Park Two, 2121 Crystal Drive, Arlington, Virginia, Sixth Floor Receptionist.

Any inquiry of a general nature or relating to the status of this application or proceeding should be **directed to:** Technology Center 2600 Customer Service Office, whose telephone number is **(703) 306-0377**.

Alexander Eisen
27 June 2003

RICHARD HJERPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600